

*Colorado Legislative Council Staff*  
**FISCAL IMPACT STATEMENT**

**Date:** August 23, 2004

**Fiscal Analyst:** Janis Baron, 303-866-3523

**BALLOT TITLE:** STATE TAXES SHALL BE INCREASED \$175 MILLION ANNUALLY THROUGH ADDITIONAL TOBACCO TAXES IMPOSED FOR HEALTH RELATED PURPOSES, AND, IN CONNECTION THEREWITH, AMENDING THE COLORADO CONSTITUTION TO INCREASE STATEWIDE TAXES ON THE SALE OF CIGARETTES BY WHOLESALERS OF THREE AND TWO-TENTHS CENTS PER CIGARETTE AND ON THE SALE, USE, CONSUMPTION, HANDLING, OR DISTRIBUTION OF OTHER TOBACCO PRODUCTS BY DISTRIBUTORS AT THE RATE OF TWENTY PERCENT OF THE MANUFACTURER'S LIST PRICE; INCREASING SUCH TOBACCO TAXES EFFECTIVE JANUARY 1, 2005; REQUIRING ANNUAL APPROPRIATIONS OF SPECIFIED PERCENTAGES OF THE ADDITIONAL TOBACCO TAX REVENUES TO EXPAND ELIGIBILITY FOR AND INCREASE ENROLLMENT IN THE CHILDREN'S BASIC HEALTH PLAN, TO FUND COMPREHENSIVE PRIMARY MEDICAL CARE THROUGH CERTAIN COLORADO QUALIFIED PROVIDERS, TOBACCO EDUCATION PROGRAMS, AND PREVENTION, EARLY DETECTION, AND TREATMENT OF CANCER AND CARDIOVASCULAR AND PULMONARY DISEASES, TO COMPENSATE THE STATE GENERAL FUND, THE OLD AGE PENSION FUND, AND LOCAL GOVERNMENTS FOR TOBACCO TAX LOSSES RESULTING FROM REDUCED SALES OF CIGARETTES AND TOBACCO PRODUCTS; SPECIFYING THAT THE APPROPRIATIONS OF ADDITIONAL TOBACCO TAX REVENUES SHALL BE IN ADDITION TO AND NOT SUBSTITUTED FOR APPROPRIATIONS FOR SUCH PROGRAMS ON JANUARY 1, 2005; ALLOWING THE USE OF ADDITIONAL TOBACCO TAX REVENUES FOR ANY HEALTH RELATED PURPOSE AND TO SERVE POPULATIONS ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN AND THE COLORADO MEDICAL ASSISTANCE PROGRAM AS OF JANUARY 1, 2005, UPON A DECLARATION OF A STATE FISCAL EMERGENCY BY TWO-THIRDS OF THE MEMBERS OF EACH HOUSE OF THE GENERAL ASSEMBLY AND THE GOVERNOR; PROHIBITING THE REPEAL OR REDUCTION OF EXISTING TAXES IMPOSED ON CIGARETTES AND OTHER TOBACCO PRODUCTS; EXCLUDING ALL ADDITIONAL TOBACCO TAX REVENUES FROM FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION; AND EXEMPTING APPROPRIATIONS OF ADDITIONAL TOBACCO TAX REVENUES FROM THE STATUTORY LIMITATION ON GENERAL FUND APPROPRIATIONS GROWTH OR ANY OTHER EXISTING SPENDING LIMITATION.

Fiscal Impact Summary	FY 2004/2005	FY 2005/2006
<b>State Revenue from new Tobacco Taxes</b>	\$78.3 million	\$161.1 million
<b>State Expenditures</b>		
Tobacco Tax Revenue	—	\$160.0 million
Federal Funds	—	\$140.0 million
<b>FTE Position Change</b>	0.0 FTE	23.0 FTE
<b>Other State Impact:</b> None — Amendment 35 is exempt from the requirements of TABOR.		
<b>Effective Date:</b> January 1, 2005 — if approved by the voters at the November 2004 general election.		
<b>Local Government Impact:</b> New tax revenue for health-related purposes — estimated at \$1.57 million annually.		

**Summary of Measure**

The proposed amendment to the Colorado Constitution:

- increases the tax on a pack of cigarettes from 20 cents to 84 cents;
- increases the tax on tobacco products other than cigarettes from 20 percent to 40 percent of the price;
- specifies that the new tax revenue is to be used for health care services and tobacco education and cessation programs;
- requires the legislature to maintain current funding levels for existing health-related programs and to use the new revenue only to expand these programs;
- excludes the new tax revenue from state revenue and spending limits and local government revenue limits; and
- allows the legislature, by a two-thirds vote, to declare a state fiscal emergency and to use all of the new revenue for any health-related purpose for up to one budget year.

**State Revenue**

Anticipated tax revenue from Amendment 35 is based on the March 2004 Legislative Council staff forecast. The fiscal note assumes a lower level of revenue than the \$175.0 million specified in the measure's title for two reasons: (1) the forecast applies an elasticity factor of (0.25) to account for reduced sales resulting from the new cigarette and tobacco products taxes; and (2) the forecast accounts for the 3 percent discount rate returned to tobacco distributors. Revenue projections for the new tobacco taxes are noted in Table 1. FY 2004-05 reflects only 6 months of tax collections due to the measure's effective date of January 1, 2005.

<b>Table 1 — Amendment 35 Tax Revenue (in millions)</b>			
<b>Fiscal Year</b>	<b>Added Cigarette Tax of \$0.64</b>	<b>Added Tobacco Products Tax of 20%</b>	<b>Total New Tax Revenue</b>
<b>2004-05</b>	<b>\$72.6</b>	<b>\$5.7</b>	<b>\$78.3</b>
<b>2005-06</b>	<b>\$149.3</b>	<b>\$11.8</b>	<b>\$161.1</b>
<b>2006-07</b>	<b>\$147.4</b>	<b>\$12.4</b>	<b>\$159.8</b>
<b>2007-08</b>	<b>\$145.6</b>	<b>\$13.0</b>	<b>\$158.6</b>
<b>2008-09</b>	<b>\$143.7</b>	<b>\$13.7</b>	<b>\$157.4</b>

**State Expenditures**

Table 2 identifies how the new tax revenue will be distributed pursuant to Amendment 35. Should the measure be adopted, the fiscal note assumes that the General Assembly will enact legislation to implement the amendment's programs and to establish the programs' parameters. At this time, it is assumed that the

programs will be implemented no sooner than FY 2005-06, which begins July 1, 2005. This will allow a sufficient reserve of revenue to accumulate prior to making any appropriations.

<b>Table 2 — Required Distribution of Tax Revenue Under Amendment 35 (in millions)</b>		
<b>Percentage Amount</b>	<b>Purpose/Program</b>	<b>Annual Estimated Distribution*</b>
46%	to increase enrollment and expand eligibility for children, their parents, pregnant women, and other adults in either the Children's Basic Health Plan or the state's Medicaid program	\$73.2
19%	to pay for health care services at clinics or hospitals where at least half of the patients served are uninsured or medically indigent	\$30.3
16%	for school, community, and statewide education programs designed to reduce the number of children and adults who smoke and reduce the community's exposure to second-hand smoke	\$25.5
16%	to prevent, detect, and treat cancer, heart, and lung diseases	\$25.5
3%	to augment the state General Fund and the Old Age Pension Fund for any health-related purposes, and to be used by local governments for any health-related purpose	\$4.7

\* Annual distribution based on 5-year average revenue collections.

**Department of Health Care Policy and Financing.** The department will receive approximately \$103.5 million annually as a result of Amendment 35 — \$73.2 million for the Children's Basic Health Plan (CBHP) and \$30.3 million for comprehensive primary care for Colorado's uninsured or medically indigent. The department will incur administrative expenses to fully implement and operate these programs. The total staffing need is estimated at 7.0 FTE.

**Children's Basic Health Plan** — It is assumed that the CBHP will be expanded rather than Medicaid because federal financial participation is 2 to 1 for the plan and because CBHP uses an insurance model (benefits can be structured at a lower cost per enrollee due to differences in federal requirements). Over time, CBHP expansion will include 3 components:

1. Expanding CBHP to children and pregnant women with a family income up to 200 percent of the federal poverty level (FPL).
2. Establishing a high needs pool for children's dental benefits (high need pool would provide dental services that are medically necessary but not included in the current CBHP benefit package due to cost).
3. Expanding CBHP to parents of children in the program.

**Comprehensive Primary Care** — Approximately 25 federal qualified health centers, clinics, hospitals and medical centers will qualify for participation in this program. Revenue distribution, less administrative costs, will be based on data collected from the providers on the number of uninsured or medically indigent patients served monthly. Revenue distribution will be based upon proportionate share. This program will not qualify for federal matching funds.

**Department of Public Health and Environment.** The department will receive approximately \$51.0 million annually as a result of Amendment 35 — \$25.5 million for a Tobacco Education and Prevention Partnership Program and \$25.5 million for a Cardiovascular, Pulmonary and Cancer Prevention Program. Neither program will qualify for federal matching funds. The department will incur administrative expenses to fully implement, operate and provide technical support for these programs. The total staffing need is estimated at 16.0 FTE.

***Tobacco Education and Prevention Partnership Program*** — The program will be consistent with SB 00-71, which authorized the Tobacco Education, Prevention and Cessation Grants Program. Added funding resulting from Amendment 35 will allow all program components to be fully operational. The department will retain 5 percent of total funds received for administrative costs, and the remaining 95 percent will be distributed in the form of grant awards to fund programs designed to:

- reduce initiation of tobacco use by children and youth;
- promote cessation of tobacco use among youth and adults (including persons with mental illness); and
- reduce exposure to second-hand smoke, especially among children.

***Cardiovascular, Pulmonary and Cancer Prevention Program*** — The department will retain 7 percent of total funds received for administrative (5%) and program evaluation (2%) costs, and the remaining 93 percent will be available for evidence-based program activities. The department will establish funding priorities based on recommendations from the Cardiovascular Health Coalition, the Stroke Advisory Board, and the Colorado Cancer Coalition. Based on guidelines established by the federal Centers for Disease Control, the program components will emphasize:

- prevention;
- early detection;
- treatment;
- program surveillance and evaluation; and
- provider education and training.

**Department of Revenue.** The department will incur a one-time cost of \$3,520 in systems costs to track the new tax revenue. It is assumed that this cost will be met with the new revenue.

**State General Fund and Old Age Pension Fund.** The state General Fund and the Old Age Pension Fund will each receive approximately \$1.57 million annually for health-related purposes under Amendment 35. This revenue is provided to compensate for lost tax revenue due to lower cigarette and tobacco sales resulting from the new taxes.

### Local Government Impact

Much like the state General Fund and the Old Age Pension Fund, local governments are to receive \$1.57 million annually for health-related purposes. Again, this revenue is provided to compensate for lost tax revenue due to lower cigarette and tobacco sales resulting from the new taxes.